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U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE
 ON INTELLIGENCE

WASHINGTON, DC 20515

January 28, 1986

MEMORANDUM FOR THE RECORD

FROM: *DSA*
 David S. Addington
 Counsel, Subcommittee on Legislation

SUBJECT: Dates of Applicability of Statutory Restrictions Relating to
 Paramilitary Activities in Nicaragua

1. Summary. The "Boland Amendment" restriction on use of funds for the purpose of overthrowing the Government of Nicaragua was in force from December 21, 1982 to December 8, 1983. The "\$24 million cap" restriction on use of funds to support paramilitary operations in Nicaragua was in effect from December 8, 1983 through September 30, 1984; however, any funds expended in fiscal year 1984 prior to enactment of the \$24 million ceiling would count against the ceiling. A full prohibition on use of funds to support paramilitary activities in Nicaragua applied from October 1, 1984 through October 11, 1984. Another full prohibition went into effect on October 12, 1984 and remained in effect through December 19, 1985. Since August 8, 1985, Nicaragua-related restrictions on foreign aid funds, and on use of any authorized funds in contravention of international law without authorization by law, have been in effect. Since December 4, 1985, a restriction which allows only certain communications support and certain infrastructure expenditures has been in effect. The full texts of the various Nicaragua-related restrictions appear below.

2. The Boland Amendment. On December 21, 1982, the Boland Amendment became law as section 793 of the Department of Defense Appropriation Act, 1983 incorporated in the Continuing Appropriations Resolution for Fiscal Year 1983 (Public Law 97-377). The Boland Amendment provided:

"Sec. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras." [Emphasis added]

The term "this Act" refers to the DoD Appropriation Act, 1983. That Act provided the funds for U.S. Government intelligence activities only until the end of fiscal year 1983 (September 30, 1983), except that Section 751 of the Act provided for availability for two years of funds appropriated to the Reserve for Contingencies of the CIA. Section 751 provided:

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"Sec. 751. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve, which shall remain available until September 30, 1984."

Thus, the Boland Amendment, when it became law on December 21, 1982, had the following effect with respect to the CIA:

-- A one fiscal year prohibition to expire on September 30, 1983 on CIA use of funds appropriated by the DoD Appropriations Act, 1983 (except for the CIA Reserve).

-- A two fiscal year prohibition to expire on September 30, 1984 on CIA use of funds appropriated by the DoD Appropriations Act, 1983 to the CIA Reserve for Contingencies. 1/

3. Extension by Continuing Appropriations Resolution for FY 1984. On October 1, 1983, the Continuing Appropriations Resolution for Fiscal Year 1984 (Public Law 98-107) became law. The Preamble and Section 101(c) of that Resolution provided:

"That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

1/ Even after enactment of the Boland Amendment restricting use of funds provided by the DoD Appropriations Act, 1983, the CIA Reserve contained funds provided for two-year availability by the DoD Appropriations Act, 1982 (Public Law 97-114, December 29, 1981, Sec. 752). These FY 1982 funds in the Reserve were made available until September 30, 1983. Thus, even after enactment of the Boland Amendment on December 21, 1982, funds technically were available to the CIA in the Reserve that were not subject to the Boland Amendment restriction. The significance of the technical availability of these FY 1982 funds not subject to the Boland Amendment may be slight given the historical accounting practices of the CIA. Apparently, the CIA has not used funds from the Reserve to pay the salaries of CIA personnel; they are paid from other funds, which, during the relevant period, would have been subject to the Boland Amendment restriction. Thus, although CIA may have had FY 1982 funds in the Reserve that were not subject to the Boland Amendment restriction, the CIA would have had no way to release, obligate or expend those funds except by use of Boland Amendment restricted funds, since action by CIA-salaried personnel is required to release, obligate or expend funds. In short, while the CIA had available FY 1982 unrestricted funds in the Reserve, the bureaucratic process of making use of those funds would have required use (by obligations or expenditures allocable to CIA staff salaries) of funds restricted by the Boland Amendment.

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" . . . (c) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities . . . which were conducted in fiscal year 1983 . . . but such activities shall be funded at not to exceed an annual rate for new obligational authority of \$247,000,000,000 . . . and this level shall be distributed on a pro rata basis . . . and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983 . . ." [Emphasis added]

By virtue of this provision, the Boland Amendment restriction continued to apply after September 30, 1983 to funds provided by the first FY 1984 Continuing Resolution. By operation of Section 102 of that Resolution, this temporary extension of the applicability of the restriction expired on November 10, 1983.

4. Additional Extension by Further Continuing Appropriations Resolution for FY 1984. On November 14, 1983, the Further Continuing Appropriations Resolution for Fiscal Year 1984 (Public Law 98-151) became law. The Preamble and Section 101(a) of the Further Continuing Appropriations Resolution contained the same language as the first Continuing Resolution concerning expenditures pending enactment of the Department of Defense Appropriation Act, 1984. Thus, the Boland Amendment restriction continued to apply, to funds provided by the FY 1984 Further Continuing Resolution, from November 14, 1983 until enactment of the DOD Appropriation Act, 1984. 2/

5. End of the Boland Amendment Restriction with DoD Appropriation Act, 1984. On December 8, 1983, the Department of Defense Appropriation Act, 1984 (Public Law 98-212) became law. Section 775 of that Act provided:

"Sec. 775. During fiscal year 1984, not more than \$24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual."

The Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215), which became law on December 9, 1983, contained an identical provision

2/ The Boland Amendment restriction technically was not in force during the funding hiatus between midnight Thursday, November 10, 1983 and November 14, 1983. However, sections 102, 103 and 107 of the Further Continuing Appropriations Resolution for Fiscal Year 1984 would appear to render the Nicaragua funding restriction technically applicable retroactively with respect to obligations and expenditures during the funding hiatus.

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(Sec. 108). The DoD Appropriation Act, 1984, enacted on December 8, 1983, did not carry forward the Boland Amendment restriction. 3/ The \$24,000,000 cap provision of the FY 1984 DOD Appropriations Act and the FY 1984 Intelligence Authorization Act expired at the close of fiscal year 1984, on September 30, 1984.

6. Full Prohibition on Support for Paramilitary Activities Contained in Temporary Continuing Resolutions. On October 3, 1984, the First Continuing Appropriations Resolution for Fiscal Year 1985 (Public Law 98-441) became law. The Preamble and Section 101(a) of that Resolution provided in part:

"That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated. . . namely:

Sec. 101.(a) Such amounts as may be necessary for continuing projects and activities which were conducted in the fiscal year 1984, and for which provision was made in the following appropriation Acts, at the rate for operations, under the terms and conditions, and to the extent and in the manner provided for in the fiscal year 1984 unless otherwise provided for in this joint resolution:
 . . . Department of Defense Appropriation Act, 1984 . . ."
 [Emphasis added]

Section 106(c) of the Resolution provided that:

"No appropriations or funds made available pursuant to this joint resolution to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual."

3/ It should be noted that obligations and expenditures in fiscal year 1984 made prior to enactment of the \$24 million ceiling counted against the ceiling.

It could be argued that the initial Boland Amendment restriction technically continued to apply until September 30, 1984 with respect to the funds appropriated on a two fiscal year availability basis to the CIA Reserve for Contingencies by the DoD Appropriations Act, 1983. It could equally well be argued that, on the contrary, Congress intended the \$24,000,000 cap provision in Section 775 of the DoD Appropriations Act, 1984 (and the identical Section 108 of the Intelligence Authorization Act for FY 1984) to be the exclusive governing appropriations restriction with respect to paramilitary activities in Nicaragua, and it thus superseded the applicability of the Boland Amendment to the two-year money remaining in the Reserve provided by the DoD Appropriation Act, 1983.

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Thus, a full prohibition on use of funds to support paramilitary operations in Nicaragua took effect on October 3, 1984. 4/

The First Continuing Resolution, which would otherwise have expired on October 3, 1984 (the day it became law) was subsequently extended to 6 p.m. EDT on October 5, 1984 (Public Law 98-453), October 9, 1984 (Public Law 98-455), and October 11, 1984 (Public Law 98-461). Thus, the full prohibition on use of funds for support of paramilitary operations in Nicaragua which entered into effect on October 3, 1985, remained applicable through October 11, 1985.

7. Fiscal Year 1985 Full Prohibition. On October 12, 1984, the Further Continuing Appropriations Resolution for Fiscal Year 1985 (Public Law 98-473) became law. Section 8066(a) of the Department of Defense Appropriations Act, 1985, as incorporated in the Resolution, stated:

"Sec. 8066. (a) During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual."

4/ No Nicaragua related prohibition was in effect during the funding hiatus which occurred on October 1 and 2, 1984. However, sections 102, 103 and 106(c) of the first Continuing Resolution (Public Law 98-441) would appear to render the full prohibition relating to Nicaragua applicable with respect to obligations and expenditures during the funding hiatus, except, technically, with respect to two-year money appropriated to the Reserve for Contingencies (and five-year money for CIA building construction) by the FY 1984 DOD Appropriations Act (Sec. 747).

The two-year money appropriated to the CIA Reserve for Contingencies by the DOD Appropriations Act, 1984 (and authorized by the Intelligence Authorization Act for Fiscal Year 1984) was available for use free of restriction after September 30, 1984, until the restriction contained in Section 801 of the Intelligence Authorization Act for Fiscal Year 1985 (Public Law 98-618) took effect on November 8, 1984. See note 6 below. However, because (a) execution of a Reserve Release requires use of non-Reserve money allocable to CIA staff salaries (see note 1 above) and (b) the various continuing resolutions made Nicaragua restrictions applicable to all money available to CIA other than the two-year Reserve money, the two-year Reserve money technically available between October 1 and November 8, 1984 for support of paramilitary operations in Nicaragua could not have been used, since it could not have been released without use of funds subject to the Nicaragua prohibition.

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Subsequent provisions of Section 8066 provided that the prohibition in Section 8066(a) would cease to apply if (1) the President submitted a report to Congress after February 28, 1985 explaining the need for assistance for paramilitary operations in Nicaragua and (2) Congress, under procedures for expedited votes, approved such assistance, not to exceed \$14 million, by a joint resolution. The President submitted the report contemplated by Section 8066 on April 3, 1985. The Congress did not pass a joint resolution approving assistance, 5/ and the prohibition contained in Section 8066(a) remained in effect.

Thus, from October 12, 1984, a full prohibition existed on use of funds available during fiscal year 1985 to CIA, DOD and other intelligence entities to support paramilitary activities in Nicaragua. 6/ Subsequently, a statute was enacted making clear that nothing in Section 8066(a), or the corresponding prohibition in the FY 1985 Intelligence Authorization Act (see note 6), prohibited the United States Government from exchanging information

5/ A joint resolution approving assistance (S.J. Res. 106) passed the Senate on April 23, 1985; that same day, a joint resolution (H.J. Res. 239) approving assistance failed of passage in the House.

6/ Section 801 of the Intelligence Authorization Act for Fiscal Year 1985 (Public Law 98-618, November 8, 1984) provided identical treatment of the question of support for paramilitary activities by incorporating by reference the Continuing Resolution provision (Section 8066, DOD Appropriations Act 1985):

"Sec. 801. No funds authorized to be appropriated this Act or by the Intelligence Authorization Act for fiscal year 1984 (Public Law 98-215) may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except to the extent provided and under the terms and conditions specified by House Joint Resolution 648, making continuing appropriations for fiscal year 1985, and for other purposes, as enacted."

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with the Nicaraguan democratic resistance or from administering a specific program of humanitarian assistance to the resistance. 7/

7/ Section 722 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; August 8, 1985) authorized an appropriation of \$27,000,000, to remain available for obligation through March 31, 1986, for humanitarian assistance to the Nicaraguan democratic resistance. The chapter entitled "HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE" of the Supplemental Appropriations Act, 1985 (Public Law 99-88; August 15, 1985) appropriated \$27,000,000, to remain available for obligation through March 31, 1986, for humanitarian assistance to the Nicaraguan democratic resistance, defining the term "humanitarian assistance" as "food, clothing, medicine and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles or material which can be used to inflict serious bodily harm or death." Section 102(b) of the "GENERAL PROVISIONS" in that chapter of the Supplemental Appropriations Act, 1985, provided that:

"(b) Nothing in this Act, section 8066(a) of the Department of Defense Appropriations Act, 1985 (as contained in section 101 of Public Law 98-473), or section 801 of the Intelligence Authorization Act for Fiscal Year 1985 (Public Law 98-618) shall be construed to prohibit the United States Government from exchanging information with the Nicaraguan democratic resistance, or the obligation and expenditure, but only for the purposes for which they are expressly made available, of the funds appropriated by this chapter under the headings 'HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE' and 'ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT'."

Thus, Section 102(b) made clear that the prohibition on support for military or paramilitary operations in Nicaragua did not apply to information exchange or the specified humanitarian assistance program. Section 102(a), however, provided that:

"(a) The prohibitions contained in section 8066(a) of the Department of Defense Appropriations Act, 1985 (as contained in section 101 of Public Law 98-473) and section 801 of the Intelligence Authorization Act for Fiscal Year 1985 (Public Law 98-618) shall, without limitation as to fiscal year, apply with respect to funds appropriated by this chapter under the headings 'HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE' and 'ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT'."

Thus, without fiscal year limitation, the prohibition on obligating or expending funds for support of military or paramilitary operations in Nicaragua applies to the \$27,000,000 provided by the Supplemental Appropriations Act, 1985 for humanitarian aid to the Nicaraguan democratic resistance.

See House Report 99-373, the conference report to accompany H.R. 2419, the Intelligence Authorization Act for Fiscal year 1986, p. 16, for a discussion of the scope of the humanitarian aid program as it relates to transportation.

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By its own terms, the prohibition contained in Section 8066(a) of the DOD Appropriations Act, 1985, applied during fiscal year 1985, which ended on September 30, 1985. However, the prohibition continued in force by operation of a series of continuing appropriation resolutions through December 19, 1985. The preamble and Section 101(c) of the first continuing appropriations resolution for fiscal year 1986 (Public Law 99-103; September 30, 1985) provided:

"That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the government for fiscal year 1986, and for other purposes, namely:

. . . (c) Such amounts as may be necessary for continuing activities, not otherwise specifically provided for in this joint resolution, which were conducted in the fiscal year 1985, for which provision was made in the Department of Defense Appropriation Act, 1985, under the current terms and conditions and at a rate for operations not in excess of the current rate" [Emphasis added]

By virtue of this provision and Section 102(c) of the first continuing appropriations resolution, the Section 8066(a) prohibition continued in force after September 30, 1985 until November 14, 1985. A further continuing appropriations resolution (Public Law 99-154) had the effect of extending the prohibition from November 14, 1985 to December 12, 1985; another further continuing appropriations resolution (Public Law 99-179) had the effect of extending it from December 12, 1985 to 6 p.m., EST, December 16, 1985; and yet another further continuing appropriations resolution (Public Law 99-184) had the effect of extending it from 6 p.m. EST on December 16, 1985 to December 19, 1985. 8/

8. Restrictions Relating to Foreign Aid Funds and Compliance with International Obligations. On August 8, 1985, the International Security and Development Cooperation Act of 1985 (Public Law 99-83) became law. Section 722(d) of that Act provided:

"(d) PROHIBITION RELATING TO MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA. -- Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act (except the funds authorized to be appropriated in this section), by the Foreign Assistance Act of 1961, or by the Arms Export Control Act shall be used to provide assistance of any kind, either directly or indirectly, to any person or group engaging in an insurgency or other act of

8/ The Section 8066(a) prohibition technically was not in force during a funding hiatus which occurred on December 17, 1985. However, Sections 103 and 104 of Public Law 99-103 as amended by Public Laws 99-154, 179, and 184 would appear to render the prohibition technically applicable retroactively with respect to obligations and expenditures during the funding hiatus.

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rebellion against the Government of Nicaragua. The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua."

In addition, Section 722(e) provided:

"(e) LIMITATION ON USE OF FUNDS AGAINST NICARAGUA. -- None of the funds authorized to be appropriated in this or any other Act can be used to fund directly, or indirectly, activities against the Government of Nicaragua which have not been authorized by, or pursuant to, law and which would place the United States in violation of our obligations under the Charter of the Organization of American States, to which the United States is a signatory, or under international law as defined by treaty commitments agreed to, and ratified by, the Government of the United States."

Unlike other statutory restrictions relating to Nicaragua, the limitations in Section 722(d) on use of foreign aid funds, and in Section 722(e) on compliance with international obligations, are not limited in scope to actions by departments, agencies or entities involved in intelligence activities.

9. Fiscal Year 1986 Prohibitions. Section 105 of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) provides:

"Section 105. (a) Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in Section 101 and as specified in the Classified Schedule of Authorizations referred to in Section 102, or pursuant to Section 502 of the National Security Act of 1947, or to Section 106 of the Supplemental Appropriations Act, 1985 (P.L. 99-88).

"(b) Nothing in this section precludes --

"(1) administration, by the Nicaraguan Humanitarian Assistance Office established by Executive Order 12530, of the program of humanitarian assistance to the Nicaraguan democratic resistance provided for in the Supplemental Appropriations Act, 1985, or

"(2) activities of the Department of State to solicit such humanitarian assistance for the Nicaraguan democratic resistance."

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Section 105(a) of the FY 1986 Intelligence Authorization Act thus prohibits intelligence agencies from providing funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua, except pursuant to Section 101 and 102 of the Act (authorizing a classified amount for infrastructure expenditures and communications equipment); pursuant to Section 502 of the National Security Act of 1947 (relating to intelligence reprogrammings); or pursuant to Section 106 of the Supplemental Appropriations Act, 1985 (providing for a Presidential request for aid, and an expedited congressional vote on the request). 9/

The Department of Defense Appropriations Act, 1986, incorporated in the final continuing resolution for fiscal year 1986 (Public Law 99-190) incorporated by reference the restriction contained in the Intelligence Authorization Act. Section 8050 of the DOD Appropriation Act, 1986 provides:

"Sec. 8050. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 105 of the Intelligence Authorization Act (Public Law 99-169) for fiscal year 1986."

10. Prohibitions Currently in Force. As of the date of this memorandum, the following statutory prohibitions remain in effect:

- Section 105, Intelligence Authorization Act for Fiscal Year 1986
- Section 8050, DOD Appropriations Act, 1986
- Section 722(d), International Security and Development Cooperation Act of 1985
- Section 722(e), International Security and Development Cooperation Act of 1985
- Section 8066(a), DOD Appropriations Act, 1985 (only with respect to the humanitarian aid funds provided by the Supplemental Appropriations Act, 1985).

9/ For a detailed explanation, see House Report 99-373, the conference report to accompany H.R. 2419, the Intelligence Authorization Act for Fiscal Year 1986, pp. 14-17.

NICARAGUA PROVISIONS

February 6, 1986

SECTION 106, SUPPLEMENTAL APPROPRIATIONS ACT, 1985 (P.L. 99-88)

SECTION 105, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1986

SECTION 8050, DOD APPROPRIATIONS ACT, 1986

SECTION 722(d) & 722(e) INTERNATIONAL SECURITY AND DEVELOPMENT
COOPERATION ACT OF 1985

SECTION 8066(a), DOD APPROPRIATIONS ACT, 1985

SECTION 502, NATIONAL SECURITY ACT OF 1947

ADDITIONAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 106. (a) **SUBMISSION OF REQUEST.**—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have failed to produce an agreement; or

(2) other trade and economic measures have failed to resolve the conflict;

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(b) **STATEMENT TO BE INCLUDED.**—The President's request shall include a detailed statement as to why the negotiations or other measures have failed to resolve the conflict in the region.

(c) **CONSULTATION WITH THE CONGRESS.**—In formulating a request pursuant to subsection (a), the President shall consult with the Congress.

(d) **CONGRESSIONAL ACTION.**—(1) The provisions of this subsection apply, during the Ninety-ninth Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (a).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (a)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the Supplemental Appropriations Act, 1985, notwithstanding section 10 of Public Law 91-672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to the Supplemental Appropriations Act, 1985."

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after

consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed 10 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(7) This subsection is enacted—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner, and to the same extent as in the case of any other Rule of the House, and of the right of the Committee on Rules to report a resolution for the consideration of any measure.

SECTION 105, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1986

**RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS
IN NICARAGUA**

Sec. 105. (a) Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or to section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88).

(b) Nothing in this section precludes—

(1) administration, by the Nicaraguan Humanitarian Assistance Office established by Executive order 12530, of the program of humanitarian assistance to the Nicaraguan democratic resistance provided for in the Supplemental Appropriations Act, 1985, or

(2) activities of the Department of State to solicit such humanitarian assistance for the Nicaraguan democratic resistance.

SECTION 8050, DOD APPROPRIATIONS ACT, 1986

SEC. 8050. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 105 of the Intelligence Authorization Act (Public Law 99-169) for fiscal year 1986.

SECTION 722(d) & 722(e) INTERNATIONAL SECURITY AND DEVELOPMENT
COOPERATION ACT OF 1985

(d) PROHIBITION RELATING TO MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA.—Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act (except the funds authorized to be appropriated in this section), by the Foreign Assistance Act of 1961, or by the Arms Export Control Act shall be used to provide assistance of any kind, either directly or indirectly, to any person or group engaging in an insurgency or other act of rebellion against the Government of Nicaragua. The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.

(e) LIMITATION ON USE OF FUNDS AGAINST NICARAGUA.—None of the funds authorized to be appropriated in this or any other Act can be used to fund directly, or indirectly, activities against the Government of Nicaragua which have not been authorized by, or pursuant to, law and which would place the United States in violation of our obligations under the Charter of the Organization of American States, to which the United States is a signatory, or under international law as defined by treaty commitments agreed to, and ratified by, the Government of the United States.

SECTION 8066(a), DOD APPROPRIATIONS ACT, 1985

SEC. 8066. (a) During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

(Expired, except still applicable to the \$27,000,000 in humanitarian aid provided by FY 1985 Supplemental Appropriations Act, by virtue of Section 102 of the Nicaraguan humanitarian assistance chapter of that Act)

FUNDING OF INTELLIGENCE ACTIVITIES

"Sec. 502. (a) Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

"(1) those funds were specifically authorized by the Congress for use for such activity; or

"(2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 501 of this Act concerning any significant anticipated intelligence activity, the Director of Central Intelligence has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

"(3) in the case of funds specifically authorized by the Congress for a different activity—

"(A) the activity to be funded is a higher priority intelligence or intelligence-related activity;

"(B) the need for funds for such activity is based on unforeseen requirements; and

"(C) the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

"(4) Nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with Sections 1535 and 1536 of title 31, United States Code.

"(b) Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

"(c) As used in this section—

"(1) the term 'intelligence agency' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

"(2) the term 'appropriate congressional committees' means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and

"(3) the term 'specifically authorized by the Congress' means that—

"(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

"(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity."